

TAX LAWS

Time allowed : 3 hours

Maximum marks : 100

NOTE : All references to sections mentioned in Part - A of the Question Paper relate to the Income-tax Act, 1961 and the relevant Assessment Year 2011-12 unless stated otherwise.

PART A

*(Answer Question No. 1 which is COMPULSORY
and ANY THREE of the rest from this part)*

Question 1

- (a) *Write the most appropriate answer from the given options in respect of the following having regard to the provisions of the relevant direct tax laws :*
- (i) *Which of the following income is not exempt under section 10 —*
 - (a) *Share in total income of firm*
 - (b) *Income from agriculture in Lahore*
 - (c) *Bonus on life insurance*
 - (d) *Income from mutual funds.*
 - (ii) *Which of the following income is taxable under the head 'income from salary' —*
 - (a) *Salary received by a partner from firm*
 - (b) *Salary received by a Member of Parliament*
 - (c) *Salary of a Government Officer*
 - (d) *None of the above.*
 - (iii) *Rate of depreciation chargeable on fully temporary wooden structure for the assessment year 2011-12 is —*
 - (a) *5%*
 - (b) *10%*
 - (c) *100%*
 - (d) *None of the above.*
 - (iv) *When the income of an individual includes ₹20,000 as the income of his minor child in terms of section 64(1A), taxable income in this respect will be —*
 - (a) *Nil*
 - (b) *₹20,000*
 - (c) *₹18,500*
 - (d) *None of the above.*
 - (v) *Deduction available to an individual in respect of maintenance including*

medical treatment of a dependent being a person with 80% disability, when amount incurred in this respect is ₹40,000 will be —

- (a) ₹40,000
- (b) ₹50,000
- (c) ₹1,00,000

(d) None of the above.

(1 mark each)

(b) *Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :*

- (i) *The residential status of an assessee is determined for the relevant _____.*
- (ii) *For the purposes of clubbing of income of the specified person in the income of the individual under section 64, the word 'income' includes _____.*
- (iii) *Deduction available under section 80QQB in respect of royalty income of authors shall not exceed ₹_____ in a previous year.*
- (iv) *Rent received by original tenant from sub-tenant is taxable under the head _____.*
- (v) *Commissioner of Income-tax is appointed by _____.*

(1 mark each)

(c) *What are the requisites for filing a revised return under the Income-tax Act, 1961 ?*

(5 marks)

Answer 1(a)(i)

- (b) Income from agriculture in Lahore

Answer 1(a)(ii)

- (c) Salary of a Government Officer

Answer 1(a)(iii)

- (c) 100%

Answer 1(a)(iv)

- (c) Rs.18,500

Answer 1(a)(v)

- (c) Rs.1,00,000.

Answer 1(b)

- (i) *The residential status of an assessee is determined for the relevant **Previous year.***
- (ii) *For the purposes of clubbing of income of the specified person in the income of the individual under section 64, the word 'income' includes **Loss.***

- (iii) Deduction available under section 80QQB in respect of royalty income of authors shall not exceed **₹3,00,000** in a previous year.
- (iv) Rent received by original tenant from sub-tenant is taxable under the head **Income from other sources**.
- (v) Commissioner of Income-tax is appointed by **Central Government**.

Answer 1(c)

As per section 139(5) of the Income Tax Act, 1961, the requisites for filing a revised return are as follows:

- (i) Assessee has already furnished the return of income under Section 139(1), or in pursuance of a notice under Section 142(1) and
- (ii) Discovers any omission or any wrong statement in the return filed, he may furnish a revised return.
- (iii) Such revised return can be filed at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Question 2

(a) *State, with reasons in brief, whether the following statements are true or false :*

- (i) *Prize given to Suresh by the Government of Madhya Pradesh on account of higher crop yield is an agricultural income.*
- (ii) *Voluntary contribution received by electoral trust shall be exempt in all cases.*
- (iii) *Sandeep Ltd. is a company registered in Japan. The control and management of its affairs is wholly situated in India. Sandeep Ltd. is non-resident company in India.*
- (iv) *The Commissioner (Appeals) may confirm, reduce or enhance the amount of tax assessed by the Assessing Officer.*
- (v) *A partnership firm incurring loss need not to file return of income.*

(2 marks each)

(b) *Vinod sells the following assets on 10th January, 2011 :*

	Equity Shares in R Ltd.	Jewellery	Plot of Land	Goodwill of a Business (self-generated)
	(₹)	(₹)	(₹)	(₹)
<i>Sales consideration</i>	6,00,000	7,50,000	25,00,000	25,00,000
<i>Cost of acquisition</i>	40,000	80,000	2,50,000	Nil
<i>Transfer expenses</i>	4,000	—	25,000	—
<i>Date of acquisition</i>	04.05.1988	04.03.1996	04.02.1991	—

Based on the following indices, compute income from capital gains of Vinod for the assessment year 2011-12 taking into consideration the facts that the business was set-up in November, 1997 and that he purchased a plot of land for ₹ 8,00,000 and jewellery for ₹ 2,00,000 on 10th March, 2011.

Cost inflation index for various years are — 1988-89 : 161; 1990-91 : 182; 1995-96 : 281; and 2010-11 : 711. (5 marks)

Answer 2(a)(i)

False

Prize given to Mr. Suresh is not agricultural Income for him. Since the price is not related to basic as well as subsequent operations on land.

Answer 2(a)(ii)

False

the voluntary contribution received by electoral trust is exempt only if the electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during previous year 95% of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and such electoral trust functions in accordance with the rules made in this regard by the Central Government.

Answer 2(a)(iii)

False

As the control and management of affairs of Sandeep Ltd. is wholly situated in India therefore Sandeep Ltd. is a resident company in India.

Answer 2(a)(iv)

True

According to Section 251, the Commissioner (Appeals) may confirm, reduce or annul the order of assessment.

Answer 2(a)(v)

False

As per Section 139(1), it is mandatory obligation on the firm to file return of Income or loss.

Answer 2(b)

**Computation of Income from Capital Gains of
Mr. Vinod for the Assessment Year 2011-12**

<i>Particulars</i>	<i>Equity shares</i>	<i>Jewellery</i>	<i>Plot of land</i>	<i>Goodwill of business</i>
	₹	₹	₹	₹
Sales consideration	6,00,000	7,50,000	25,00,000	25,00,000
Less : Indexed Cost of acquisition	1,76,64	2,02,420	9,76,648	Nil

	₹	₹	₹	₹
	$\frac{40,000 \times 711}{161}$	$\frac{80,000 \times 711}{281}$	$\frac{2,50,000 \times 711}{182}$	Nil
Less: Transfer expenses	4000	Nil	25,000	Nil
Long-term Capital gains	4,19,354	5,47,580	14,98,352	25,00,000

Income from long-term capital gains = 49,65,286

Note : No exemption is available in respect of purchase of a plot of land and jewellery on March 10, 2011.

Question 3

- (a) Adarsh, a Member of Parliament (MP) from Uttar Pradesh, submits the particulars of his income for the assessment year 2011-12. Compute his income from other sources :

	₹
(i) Salary as MP	4,60,000
(ii) Daily allowances as MP	1,80,000
(iii) Dividend received from a domestic company	60,000
(iv) Winnings from horse race (gross)	40,000
(v) Winnings from Sikkim State lotteries received (net)	70,000
(vi) Agricultural income in Sri Lanka	4,00,000

He received a royalty of ₹1,00,000 from a book of stories written by him. He claimed ₹12,000 as expenditure on stationery and typing.

He let-out one of his buildings alongwith plant, machinery and furniture for ₹50,000 per month. He claimed the following expenses as deduction for this building — insurance : ₹10,000; repairs : ₹15,000; depreciation: ₹40,000.

Interest credited to his recurring deposit account and cumulative time deposit account in post office were ₹32,000 and ₹48,000 respectively.

(5 marks)

- (b) Narayan had to pay ₹1,13,300 as advance tax during the financial year 2010-11. He has deposited the amount of advance tax as follows :

Date	₹
15.09.2010	29,760
15.12.2010	36,400
15.03.2011	47,140

Is he liable to pay any interest under section 234C ? If yes, determine the amount of interest payable by him. (5 marks)

- (c) Describe the provisions relating to chargeability of cash credits in respect of which the assessee has no satisfactory explanation. (5 marks)

Answer 3(a)

**Computation of Income from other sources of
Mr. Adarsh for Assessment Year 2011-12**

<i>Particulars</i>	<i>Amount (₹)</i>
Salary as M.P.	4,60,000
Daily allowance	Exempt
Dividend from a domestic company	Exempt
Winnings from Horse Race	40,000
Winnings from Sikkim state lotteries [70,000 x 100/70]	1,00,000
Agricultural income from Sri Lanka	4,00,000
Royalty from a book	1,00,000
Less : Expenses under section 57	12,000
Rent of Building along with plant, Machinery & furniture	6,00,000
Less : deduction for Expenditure under section 57	
Insurance	10,000
Repairs	15,000
Depreciation	40,000
Interest on Post Office Recurring Deposit	32,000
Interest credited to P.O. CTD Account	Exempt
Income from other sources	16,55,000

Note: Rate of TDS on State lotteries is 30%.

Answer 3(b)**Calculation of Interest Payable under section 234C by Shri Narayan**

	₹	₹
Amount to be payable as advance tax at the time of First installment (15.09.2010)		
(1,13,300 x 30%)	33,990	
Less : Amount Actually paid	29,760	
Short fall		4,230
Interest payable on short fall (4,230 x 1% x 3 month)		126.9
Amount to be payable as advance tax up to the time of second installment : (15.12.2010)		
(1,13,300 x 60%)	67,980	

	₹	₹
Less : Amount Actually paid up to second installment	66,160	
Short fall		1,820
Interest payable on this short fall		
(1820 x 1% x 3 months)		54.6
Amount to be payable as advance tax up to the time of third installment : (15.03.2011)		
(1,13,300 X100%)	1,13,300	
Less : Amount Actually paid up to Third installment	1,13,300	
Short fall		NIL
Total Interest Payable under section 234C		181.5 or 182

Answer 3(c)

Under section 68 of the Act where any sum is found credited in the books of an assessee maintained for any accounting year and the assessee is not in a position to offer explanation about the nature and source thereof or the explanation offered by him is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be treated as the income of the assessee in respect of the accounting year in which the cash credits are found to have made in the books. This section comes into operation only when the following conditions are satisfied:

- (i) The Assessee maintains books of Account;
- (ii) The assessee fails to explain the source and nature of the sum credited; or
- (iii) The explanation offered by the assessee is not satisfactory and the assessing officer comes to the conclusion that it is the undisclosed income of the Assessee.

Question 4

(a) Distinguish between any three of the following :

- (i) 'Gross total income' and 'total income'.
- (ii) 'Allowances' and 'perquisites'.
- (iii) 'Active user of asset' and 'passive user of asset'.
- (iv) 'Exemption under section 54G' and 'exemption under section 54GA'.
- (v) 'Statutory provident fund' and 'public provident fund'. (3 marks each)

(b) Mrs. Suman provides you following information regarding assets and liabilities owned by her on 31st March, 2011 :

	Market Value (₹)
(i) Residential house (self-occupied)	50,00,000
(ii) Loan taken for purchase of self-occupied house	10,00,000
(iii) Motor car for business use	10,00,000

(iv) Land in urban area	35,00,000
(v) Loan taken to purchase above land	5,00,000
(vi) Cash in hand	1,25,000
(vii) Cash at bank	2,00,000
(viii) Land in rural area within 5 kms. from Delhi	5,00,000
(ix) Jewellery	14,80,000
(x) Farm house situated outside 30 kms. from local limits of municipality	40,00,000
(xi) One residential house given on rent for 330 days during the previous year	35,00,000
(xii) Loan taken for construction of above house	5,00,000
Compute net wealth and wealth-tax liability of Mrs. Suman for the assessment year 2011-12.	
(6 marks)	

Answer 4(a)(i)**“Gross total income” and “total income”**

Gross total income means aggregate amount of income computed under five heads of Income i.e., salaries, house property, business and profession, capital gains and other sources. While total income means the taxable income arrives after allowing deductions under Section 80C to 80U from gross total income.

The tax is calculated on the total Income. Gross Total Income is more than or equal to total income. Rounding off provision does not apply to Gross Total Income while total income shall be rounded off to the nearest multiple of ₹ 10.

Answer 4(a)(ii)**“Allowances” and “perquisites”**

An allowance is a cash payment to employee on regular basis in addition to salary to meet certain expenses incurred by him in connection with duties of his office or to compensate him for any expenditure relating to performance of his duty in particular circumstances or at particular place or under a contract. An allowance may be wholly taxable, partially taxable or wholly exempt.

On the other hand perquisites means any casual emolument, fee or profit attached to an office or position in addition to salary or wages. It is a personal advantage and benefit of the recipient. It may also be given voluntarily or under a contract, in cash or in kind by way of goods, service benefit or amenities.

Answer 4(a)(iii)**“Active user of asset” and “passive user of asset”**

The user of the asset includes both active as well as passive user for claiming depreciation allowance. Active user includes the actual use of the asset during the previous year. The expression “used” should have a wider meaning so as to include not only actual but also passive user.

Passive use means an asset is kept ready for use for the purpose of the business although it was not worked during the year. Passive user entitles an assessee for the grant of depreciation in the cases of forced idleness of machinery, spare engines kept in store by a transport undertaking in case of need, etc. Depreciation is admissible on the basis of passive user in respect of residential quarters occupied by employees of the assessee near the place of business; depreciation is also allowable on assets like fans, air conditioners, refrigerators, furniture, etc. provided by employer at the quarters of his employees. The assessee is eligible for the grant of depreciation, when an asset becomes defective and non-functional after its bona fide installation.

Answer 4(a)(iv)

“Exemption under section 54G” and “Exemption under Section 54GA”

Any capital gain, (short-term/long-term), arising to any industrial undertaking from the transfer of asset being machinery or plant or building or land or any rights in building or land effected in the course of or in consequence of shifting from an urban area to any other area, shall be exempt to the extent, such capital gain is invested for the specified purpose within one year before or 3 years after the date of its transfer, provided the new asset purchased for the specified purpose is not transferred within a period of 3 years from the date of its acquisition.

Notwithstanding anything contained in section 54G, where any capital gain, (short-term/long-term), arising from the transfer of a capital asset being machinery or plant or building or land or any rights in building or land use for the purposes of the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking to any Special Economic Zone whether developed in any urban area or any other area, shall be exempt to the extent, such capital gain is invested for the specified purpose within one year before or 3 years after the date of its transfer.

Answer 4(a)(v)

“Statutory provident fund” and “Public provident fund”

‘Statutory provident fund’ is set-up under the Provident Fund Act, 1925 and is maintained by Government or Semi-Government Offices or bodies, local authorities, railways, universities, colleges, corporations, banks and recognized educational institutions, etc. while public provident fund is governed by Public Provident Fund Act, 1968 to mobilize public savings.

Only salaried persons can become member of SPF while any member of the public, salaried as well as self-employed can participate in public provident fund.

The contribution of members under SPF is deducted by employers from the salary of their employees while members of PPF have to open provident fund account at any branch of the SBI or its subsidiaries and specified branches of nationalized banks;

Amount of contribution to SPF is computed at a specified rate on the amount of salary of an employee while under PPF a member can deposit any amount subject to a minimum of ₹ 500 and a maximum of ₹ 70,000 per year.

The amount deposited under PPF is repayable after 15 years which is not so in the case of SPF.

Answer 4(b)

**Computation of Wealth Tax liability of
Mrs. Suman for the Assessment Year 2011-12**

<i>Particulars</i>	<i>Amount (₹)</i>
Residential house exempt under section 5(vi)	Exempt
Motor Car for Business use	10,00,000
Land in Urban area	35,00,000
Cash in hand in excess of ₹ 50,000	75,000
Cash at bank not an asset	Not an asset
Land in rural area within 5 km from Delhi	5,00,000
Jewellery	14,80,000
Farm house outside 30 km from local limits of Municipality	exempt
Let out house rented for 330 days during the previous year [not an asset as per section 2(ea)]	exempt
Gross Wealth	65,55,000
Less : Loan taken to purchase the urban land	5,00,000
Net wealth	60,55,000
Wealth tax @ 1% on (60,55,000 – 30,00,000)	30,550

Question 5

(a) Write short notes on **any three** of the following :

- (i) Deduction in respect of interest on loan taken for higher education.
- (ii) Treatment of agricultural income for tax purposes.
- (iii) Circumstances in which best judgment assessment is made by the assessing officer.
- (iv) Consequences of failure to deduct tax at source.
- (v) Assets exempt from tax as per section 5 of the Wealth-tax Act, 1957.
(3 marks each)

(b) Anurag owns three houses, the particulars of which are given below :

	<i>House-A (₹)</i>	<i>House-B (₹)</i>	<i>House-C (₹)</i>
<i>Municipal value</i>	80,000	1,20,000	1,00,000
<i>Fair rent</i>	90,000	1,00,000	1,10,000
<i>Monthly rent</i>	8,000	9,000	12,000
<i>Rent collection charges</i>	8,000	10,000	6,000
<i>Repair expenses</i>	5,000	6,000	4,000

Interest on loan :

- For construction	40,000	—	—
- For marriage of son	—	30,000	—
- For repairs	—	—	8,000

Commencement of construction 04.04.2003 04.01.2005 04.07.2006

Completion of construction 31.03.2007 30.06.2007 31.12.2008

Use by tenant Residential Office Residential

Municipal tax is charged @ 10%. Anurag paid municipal tax of House-A but did not pay municipal tax of House-B. The tenant paid the municipal tax of House-C which remained vacant for 3 months.

Compute income from house property of Anurag for the assessment year 2011-12. (6 marks)

Answer 5(a)(i)**Deduction for entire amount of interest paid on a loan taken for pursuing higher education [section 80E]**

The deduction is available only to individual assessee. The individual must have taken a loan from any financial institution or any approved charitable institution. The loan must have been taken for pursuing higher education. Such education must be of assessee himself or any of his relatives. The deduction shall be allowed only in respect of any sum paid by him, in the previous year by way of interest on such loan. Such amount should be paid out of his income chargeable to tax.

The whole of the amount paid during previous year towards interest is allowed as deduction and deduction shall be allowed for eight assessment years starting from the assessment year in which the assessee starts paying the interest on loan, or until the interest thereon is paid by the assessee in full, whichever is earlier.

Answer 5(a)(ii)

There is no tax on agricultural income but if an assessee has non-agricultural income as well as agricultural income, such agricultural income is included in his total income for the purpose of computation of Income-tax on non-agricultural income. This is also known as partial integration of agricultural income with non-agricultural income or indirect way of taxing agricultural income. Such partial integration is done only in the case of individual, HUF, AOP/BOI taxable at normal slab rate and artificial juridical person. It is not done in the case of firm, company, co-operative society and local authority.

The partial integration is done to compute the tax on non-agricultural income only when the following two conditions are satisfied:

- (i) Non-agricultural income of the assessee exceeds the maximum exemption limit which for assessment year 2011-12 is Rs.1,60,000 in the case of an individual (other than senior citizen and woman) and HUF, etc; and
- (ii) The Net Agricultural Income exceeds ₹5,000.

Answer 5(a)(iii)

The Assessing Officer, after taking into account all relevant material which he has gathered, is under an obligation to make an assessment of the total income or loss to the best of his judgment and determine the tax payable by the assessee in the following cases:

- (a) Where any person fails to make the return under section 139(1) and has not made a return or a revised return under section 139(4) or section 139(5);
- (b) Where any person fails to comply with all the terms of a notice issued under Section 142(1); or fails to comply with the directions issued under section 142(2A) for getting the account audited;
- (c) Where any person, having made a return, fails to comply with all the terms of a notice issued under section 143(2).

Answer 5(a)(iv)**Consequences of failure to deduct tax at source**

Where any person, including the principal officer of a company:

- (a) who is required to deduct any sum in accordance with the provisions of this Act; or
- (b) referred to in section 192(1A), being an employer does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax and hence shall be liable to penalty under section 221.

However, no penalty shall be charged under section 221 from such person unless the Assessing Officer is satisfied that such person has without good and sufficient reasons failed to deduct and pay the tax and hence shall be liable to penalty under section 221.

Answer 5(a)(v)

The following assets are exempt under section 5 of the Wealth Tax Act, 1957

1. *Property held under a trust [Section 5(i)]*

Any property (i.e. six assets) held by the assessee under trust or other legal obligation for any public purpose of charitable or religious nature in India is exempt from tax. However, this exemption is subject to the provisions of Section 21A, which has an over-riding effect on Section 5(i).

2. *Interest in the coparcenary property of the HUF [Section 5(ii)]*

As the Hindu Undivided Family is itself a unit for taxation under the Wealth-tax Act, the interest of the assessee in the coparcenary property of any Hindu Undivided Family of which he is a member, shall be exempt.

3. *One Official residence of a Ruler [Section 5(iii)]*

The erstwhile Ruler of an Indian State has been given an exemption in respect

of any one building in his occupation, being a building which has been declared by the Central Government as his official residence, immediately before the commencement of the Constitution (Twenty Sixth Amendment) Act, 1971.

4. *Heirloom Jewellery of an erstwhile Ruler [Section 5(iv)]*

A former Ruler is entitled to an exemption in respect of Jewellery in his possession provided the following conditions are satisfied:

- (i) Such Jewellery should not be his personal property;
- (ii) Such Jewellery must have been recognized before 1.4.1957 by the Central Government as his heirloom; or where no such recognition exists, it must have been recognized by the CBDT as his heirloom Jewellery at the time of his first wealth-tax assessment.

5. *Money and the assets brought into India by citizen of India or person of Indian Origin [Section 5(v)]*

An assessee who is an individual is entitled to exemption under this clause in respect of any money or asset brought into India provided the following conditions are satisfied:

- (i) Such individual should be a citizen of India or a person of Indian origin;
- (ii) He was ordinarily residing in a foreign country;
- (iii) He, on leaving such country, has returned to India with the intention of permanently residing in India.

6. *One house or part of a house [Section 5(vi)]*

Exemption under this clause is allowed only to individual and HUF assessee. The exemption is allowed in respect of:

- (i) One house; or
- (ii) A part of the house; or
- (iii) A plot of land exceeding 500 sq. mts.

Answer 5(b)

**Computation of Income from House Property
of Mr. Anurag for the Assessment Year 2011-12**

<i>Particulars</i>	<i>Amount (₹) House A</i>	<i>Amount (₹) House B</i>	<i>Amount (₹) House C</i>
Gross Annual Value	96,000	1,20,000	1,10,000
Less : Municipal Taxes	8,000	—	—
Annual Value	88,000	1,20,000	1,10,000
Less : Deductions u/s 24 :			
Standard Deduction (30%)	26,400	36,000	33,000
Interest on Loan	40,000	—	8,000
Income from HP	21,600	84,000	69,000

Total Income from House Property (21,600+84,000+69,000) is ₹1,74,600.

Notes:

- (i) No deduction is available in respect of (1) rent collection charges and repair expenses
- (ii) Interest on loan obtained for the marriage of son is not deductible.
- (iii) It is assumed that the interest is for current year.

Question 6

(a) Mahender is the karta of a Hindu Undivided Family (HUF). Compute the taxable income of the family and amount of tax payable by it on the basis of the following particulars for the year ended 31st March, 2011 :

- (i) *Income from house property* : The family uses its ancestral house for residence; the municipal value of the house is ₹60,000 per annum and interest on loan borrowed for the house has accrued to the tune of ₹22,000.

The family owns another house which is let-out for ₹8,000 p.m. The family made payment in respect of municipal taxes for the three previous years 2008-09 to 2010-11 during the current previous year 2010-11 itself equal to ₹12,000 for the let-out house.

- (ii) *Income from family business* : Net income of the family business after charging salary amounting to ₹1,20,000 of karta is ₹4,00,000. It also incurred/earned the following items of losses, expenses and incomes :

	₹
Loss on horse race	4,000
Winnings from lotteries	20,000
Profit on speculation in silver	18,000
Loss on speculation in gold	6,000
Life insurance premium on the life of family members	12,000
Donation to National Defence Fund	10,000
Donation to other approved bodies	50,000

- (iii) *Income from other sources* :

Interest on maturity of NSCs, VIII Issue	12,500
Dividend received from an Indian company (gross)	15,000
Collection charges paid for dividend	400

(10 marks)

- (b) Discuss the procedure of regular assessment under the Income-tax Act, 1961. (5 marks)

Answer 6(a)

**Computation of Taxable Income & Tax liability of
Mr. Mahender's HUF for the Assessment Year 2011-12**

<i>Particulars</i>	₹	₹	<i>Amount (₹)</i>
<i>Income from House Property :</i>			
Gross Annual Value	96,000		
Less : Municipal Taxes	<u>12,000</u>		
Annual Value		84,000	
Less : Standard deduction under section 24(30%)		<u>25,200</u>	
		58,800	
Loss on self occupied property		<u>22,000</u>	
<i>Income from House Property</i>			36,800
<i>Income from Business :</i>			
Net Income from family business		4,00,000	
Profit from speculation in Silver	18000		
Less : Loss from speculation in Gold	<u>6000</u>	<u>12,000</u>	
<i>Income from business</i>			4,12,000
<i>Income from other sources :</i>			
Loss from Horse Race (not allowed to be set off)		(4,000)	
Winning from Lotteries		20,000	
Interest on NSC VIII Issue		12,500	
Dividend received from an Indian company		<u>Exempt</u>	
<i>Income from other sources</i>		32,500	
Gross Total Income			<u>4,81,300</u>
Less : Deductions :			
Under section 80C(Life insurance Premium)		12,000	
Under section 80G		<u>33,465</u>	<u>45,465</u>
[10000 on NDF + 23,465(50% of 46,930)]			
<i>Total Income</i>			4,35,835
<i>(Rounded off)</i>			<u>4,35,840</u>
Amount of Tax			
Up to ₹ 1,60,000 NIL			
From 1,60,001 to ₹4,15,840 @ 10%			25,584
Winnings from lotteries @30%			<u>6,000</u>
<i>Tax Payable</i>			31,584
Add : EC & SHEC (3%)			<u>948</u>
<i>Total Tax Payable</i>			32,531
<i>(Rounded off)</i>			<u>32,530</u>

Notes :

- (i) Interest on loan borrowed in respect of self-occupied house which shall be allowed as deduction.
- (ii) Entire amount paid by way of municipal taxes during the previous year is deductible.
- (iii) Loss on horse races is to be carried forward to next year.
- (iv) Deduction in respect of donation to other approved bodies is available to 10% of adjusted Gross Total Income (GTI) which is Rs.4,69,300 (GTI minus deduction under section 80C). Further, total amount donated towards National Defence Fund qualifies for deduction i.e. 100%.
- (vi) Dividends from Indian company are exempt from tax; deduction for collection charges is also not available.

Answer 6(b)

Where the return has been made under section 139 or in response to a notice under section 142(1), the Assessing Officer shall if he considers it necessary or expedient to ensure that:

- (i) the assessee has not understated the income; or
- (ii) has not computed excessive loss; or
- (iii) has not underpaid the tax in any manner,

serve a notice on the assessee under section 143(2) requiring him to attend his office or produce or cause to be produced any evidence on which the assessee may rely in support of the return on a date to be specified in the notice.

However, no notice under section 143(2) shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return is furnished.

The Assessing Officer, on the day specified in the notice under section 143(2) or as soon afterwards, as may be, shall, by order in writing, make an assessment of the Total Income or the loss of the assessee and determine the sum payable by him or refund of any amount due to him on the basis of such assessment. The assessment shall be made after taking into consideration the following:

- (i) Such evidence as the assessee may produce on the dates specified, from time to time and such other evidence as the Assessing Officer may require on specified points;
- (ii) All relevant material gathered by him.

PART B

Question 7

Attempt any four of the following :

- (i) *What are the various provisions relating to payment of service tax ? Explain. (5 marks)*

(ii) *What are the provisions regarding penalties under service tax in the following cases :*

(a) *Failure to take registration.*

(b) *Failure to keep books of account.*

(c) *Failure to produce accounts and documents.* (5 marks)

(iii) *"The value of any taxable service shall be the gross amount charged by the service provider for such service rendered by him". In the light of this statement, explain how the value of taxable service is determined.*
(5 marks)

(iv) *Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :*

(a) *Rate of service tax payable for the financial year 2010-11 is _____ per cent.*

(b) *Maximum amount of penalty for late filing of service tax return is ₹_____.*

(c) *Under service tax rules, every assessee is required to furnish to_____ at the time of filing his return for the first time a list of all accounts maintained in relation to the service tax.*

(d) *Service tax in India is levied by _____.*

(e) *Service tax return can be revised within a period of _____ from the date of submission of return.* (1 mark each)

(v) *State, with reasons in brief, whether the following statements are true or false :*

(a) *Service tax in India is levied under a separate enactment.*

(b) *The Central Excise Officer is empowered to impose penalty under service tax.*

(c) *The Central Government has exempted some of the taxable services.*

(d) *Recovery and adjustment of service tax means the same thing.*

(e) *Service tax is administered by service tax department.*

(1 mark each)

Answer 7(i)

The service tax shall be paid to the credit of Central Government:

(i) by the 6th day of the month, if the tax is deposited electronically through internet banking; and

(ii) by the 5th day of the month in any other case,

immediately following the calendar month in which the service is deemed to be provided as per the rules framed in this regard.

Provided that where the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the credit of the Central Government by the 6th day of the month if the tax is deposited electronically through internet banking, or, in any

other case, the 5th day of the month, as the case may be, immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard.

Provided also that the service tax on the services deemed to be provided in the month of March, or the quarter ending in March, as the case may be shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

Answer 7(ii)

- (i) Any person who is liable to pay service tax or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to pay a penalty which *may extend to ten thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher*, starting with the first day after the due date, till the date of actual compliance.
- (ii) Any person who fails to keep, maintain or retain books of account and other documents, as required in accordance with the provisions of this Chapter or the rules made thereunder shall be liable to a penalty which may *extend to ten thousand rupees*.
- (iii) Any person who fails to produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder shall be liable to a penalty which *may extend to ten thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher* starting with the first day after the due date till the date of actual compliance.

Answer 7(iii)

Under Section 67, service tax shall be chargeable on any taxable service with reference to its value. Such value will be as follows:

- (1) in a case where the provision of service is for a *consideration in money*, be the gross amount charged by the service provider for such service provided or to be provided by him;
- (2) in a case where the provision of service is for a *consideration not wholly or partly consisting of money*, the value of taxable service shall be determined by the service provider in the following manner:—
 - (a) the value of such taxable service shall be equivalent to the gross amount charged by the service provider to provide similar service to any other person in the ordinary course of trade and the gross amount charged is the sole consideration;
 - (b) where the value cannot be determined in accordance with clause (a), the service provider shall determine the equivalent money value of such consideration which shall, in no case be less than the cost of provision of such taxable service.
- (3) Where the gross amount charged by a service provider, for the service provided

or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.

- (4) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.
- (5) The gross amount shall include any expenditure or cost incurred by the service provider. However, the expenditure incurred as a pure agent of the service receiver shall not form part of the value of taxable services.

Answer 7(iv)

- (a) Rate of service tax payable for the financial year 2010-11 is **10** per cent.
- (b) Maximum amount of penalty for late filing of service tax return is **₹20,000**.
- (c) Under service tax rules, every assessee is required to furnish to **Superintendent of Central Excise** at the time of filing his return for the first time a list of all accounts maintained in relation to the service tax.
- (d) Service tax in India is levied by **Central Government** .
- (e) Service tax return can be revised within a period of **90 days** from the date of submission of return.

Answer 7(v)

- (a) **False**, service tax in India is not levied under a separate enactment it is levied under Chapter V of Finance Act, 1994.
- (b) **True**, under section 83A of the Finance Act, 1994 the Central Excise Officer has the power of adjudication conferred by the CBEC.
- (c) **True**, the Central Government by virtue of Notification no. 22/2006-service tax dated 31.5.2006 exempted some of the taxable services from the whole of the service tax leviable thereon under section 66 of the Finance Act, 1994.
- (d) **False**, the recovery of service tax is made where the Central Excise Officer serves a notice for the amount of service tax which has not been levied or paid or has been short levied or short paid or enormously refunded. On the other hand, the adjustment of service tax means the adjustment of excess amount of the service tax paid by assessee against his service tax liability on the succeeding month or quarter.
- (e) **False**, service tax is administered by Central Board of Excise & Customs (CBEC).

PART C

Question 8

Attempt any four of the following :

- (i) *What is 'white paper' ? What are the different parts of white paper under value added tax (VAT) ?*

- (ii) *Explain the procedure of computation of VAT liability of a dealer.*
- (iii) *Write a note on certification by professionals under VAT system.*
- (iv) *Explain the audit procedure applicable under the VAT system.*
- (v) *“Input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax.” Explain. (5 marks each)*

Answer 8(i)

The empowered committee of the State Finance Ministers constituted by the Ministry of Finance, Government of India on the basis of the resolution adopted in the conference of the Chief Ministers on November 16, 1999 under the chairmanship of Dr. Asim Dasgupta came out with a white paper on state level VAT, which was released on January 17, 2005 by Shri P Chidambaram, The Finance Minister, Government of India on this occasion the Finance Minister remarked:

This is the first document which have been collectively prepared and put out to the people of the country by the Finance Ministers of all states.... We have formed the rainbow coalition to undertake one of the biggest tax reforms”.

This paper consists of three parts. In Part I Justification of VAT and the background has been mentioned. In Part II main design of VAT as evolved on the basis of consensus among the states through repeated discussions in the Empowered Committee has been elaborated and in Part III other related issues for effective implementation of VAT have been discussed.

Answer 8(ii)

The VAT is based on value addition to the goods and the related VAT liability is calculated as follows:

- (a) The VAT Liability will be self-assessed by the dealer on the basis of the records maintained.
- (b) The liability is determined after deducting input tax credit. Input tax credit is generally given for the entire VAT paid within the state on purchases of taxable goods meant for resale/manufacture of taxable goods.
- (c) If the tax credit exceeds the amount of tax payable on sales in a tax period it shall be carried over to the next period. If there is any excess unadjusted input tax credit at the end of the financial year it shall be eligible for refund.
- (d) This input tax credit is given to both manufacturers and traders for purchase of input/supplies meant for both sales within the state as well as the other states irrespective of their date of utilisation or sale.
- (e) For all exports made out of the country tax paid within the state will be refunded in full.
- (f) Tax paid on inputs procured from other states through interstate sale shall not be eligible for credit.

Answer 8(iii)

As we know that the VAT system in India is not unique and every state and union territories have its own VAT Act or Rules. Considering this situation in general terms a professional including a Company Secretary has to see that all documents to be filed before VAT authorities are correct or not specially the tax calculation sheet, TIN or GRN No. etc. Apart from this the professionals has to see that returns to be filed before VAT authorities are made as per the prescribed rules. He should take into consideration the procedural aspect regarding payment of VAT and related assessment proceedings.

As a professional the Company Secretary has to see that whether the dealer has maintained the records and documents required under the Act. He has to advice the concerned client the provisions relating to appeals and revisions if any matter relating to VAT proceedings. He should be well versed with the technical aspect in dealing with seizure and confiscation proceedings before Judicial or quasi-judicial bodies.

The professional are authorised to conduct audit of accounts maintained by the dealers under the various VAT States Act.

Answer 8(iv)

Audit under VAT has been made compulsory by various states. There shall no longer be compulsory assessment at the end of each year. Correctness of self-assessment shall be checked through a system of Department Audit. A certain percentage of the dealers shall be taken up for audit every year on a scientific basis. In case of detection of evasions during the course of audits, the concerned dealer may be taken up for audit for previous periods. This Audit Wing shall remain delinked from tax collection wing to remove any bias. The audit team shall conduct its work in a time bound manner and audit shall be completed within six months and the audit report shall be transparently sent to the dealer as well.

Simultaneously, a cross-checking through computerized system shall be done on the basis of coordination between the tax authorities of the State Governments and the authorities of Central Excise to compare constantly the tax returns and set-off documents of VAT system of the States and those of Central Excise. This comprehensive cross-checking system shall help reduction in tax evasions and also lead to significant growth of tax revenue.

Answer 8(v)

VAT is based on the value addition to the goods and the related VAT liability of the dealer is computed by setting off the amount of input tax credit from the amount of tax collected on sales during the period of payment. The speciality of VAT lies in deducting the amount of tax paid earlier through the system of input tax credit. Thus, it is rightly said that input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax.

Input tax credit is available, generally, for the amount of VAT paid within a state on purchases of taxable goods intended for resale or manufacture of taxable goods. However, credit is generally not available in respect of the following purchases:

- (a) Goods purchased from unregistered dealers;

- (b) Goods purchased from other states/countries;
 - (c) Purchase of goods used in manufacture of exempted goods;
 - (d) Purchased of goods used as fuel in power generation;
 - (e) Purchase of capital goods (in some cases credit is available in instalments);
 - (f) Purchase of goods to be despatched as branch transfers outside states;
 - (g) Purchase of goods in cases where the dealer does not have invoices showing amounts of tax charged separately by the selling dealer;
 - (h) Purchase from a dealer who has opted for composition scheme;
 - (i) Purchase of non-creditable goods.
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